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**FILED**  
**DISTRICT COURT OF GUAM**

FEB 27 2008

**JEANNE G. QUINATA**  
**Clerk of Court**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MANHANG CHO,

Defendant.

CRIMINAL CASE NO. 08-00005

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, MANHANG CHO, enter into the following plea agreement:

1. The defendant agrees to plead guilty to an Indictment charging him with one count of Possession of a Firearm by a Prohibited Person in violation of Title 18, United States Code, Sections 922(g)(5)(b), 924(a)(2) and 2.

2(a) The defendant, MANHANG CHO, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of trafficking in firearms, controlled substances, money laundering and other related offenses. Cooperation shall include providing all information known to defendant regarding any criminal activity, including but not limited to the offense to which he is pleading guilty. Cooperation will also include complying

1 with all reasonable instructions from the United States; submitting to interviews by investigators  
2 and attorneys at such reasonable times and places to be determined by counsel for the United  
3 States; producing to the United States all non-privileged documents (including claimed personal  
4 documents) and other materials in the possession, custody or control of defendant requested by  
5 attorneys and agents of the United States; and testifying fully and truthfully before any grand  
6 juries, hearings, trials or any other proceedings where defendant's testimony is deemed by the  
7 United States to be relevant. Defendant understands that such cooperation shall be provided to  
8 any state, territorial, local or federal law enforcement agencies designated by counsel for the  
9 United States. Further, it is understood and agreed that defendant shall not directly, indirectly, or  
10 intentionally disclose anything defendant knows or had done concerning the United States'  
11 investigation to anyone other than defendant's attorney. Defendant agrees to take no steps  
12 directly or indirectly to warn any subject of this investigation that defendant, a subject or anyone  
13 else is being investigated.  
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15 2(b) The United States will make this cooperation known to the Court prior to the  
16 defendant's sentencing. The defendant further understands that he remains liable and subject to  
17 prosecution for any criminal schemes of which he does not fully advise the United States, or for  
18 any material omissions in this regard.

19 2(c) This agreement is not contingent in any way upon the outcome of any investigation,  
20 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in  
21 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the  
22 success of any prosecution.

23 2(d) Except as otherwise herein provided, and in particular in Paragraph 11, the United  
24 States agrees not to prosecute defendant for any other non-violent offenses which were  
25 committed in the District of Guam or the Northern Mariana Islands (CNMI) which defendant  
26 reveals to Federal authorities during his cooperation with the United States. This agreement is  
27 limited to crimes committed by defendant in the districts of Guam or the CNMI..  
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2 3. The defendant, MANHANG CHO, further agrees to submit to a polygraph  
3 examination by any qualified Federal polygraph examiner. The defendant understands that such  
4 polygraph examinations may include, but will not be limited to, his knowledge of or involvement  
5 in firearm or drug trafficking and money laundering activities and his knowledge of other  
6 person's involvement in such activities. Defendant understands that the government will rely on  
7 the polygraph in assessing whether he has been fully truthful.

8 4. The defendant, MANHANG CHO, understands that the maximum sentence for  
9 Possession of a Firearm by a Prohibited Person in violation of 18 U.S.C. §§ 922(g)(5)(B),  
10 924(a)(2) and 2 is ten (10) years incarceration, a \$250,000 fine, and a \$100 special assessment  
11 fee, which must be paid at the time of sentencing. Any sentence imposed may include a term of  
12 not more than three (3) years supervised release in addition to such terms of imprisonment.  
13 Defendant understands that if he violates a condition of supervised release at any time prior to  
14 the expiration of such term, the court may revoke the term of supervised release and sentence  
15 him up to an additional two (2) years of incarceration pursuant to 18 U.S.C. § 3583(e)(3).

16 5(a) If defendant cooperates as set forth in Paragraphs 2, 3, and 4 the government will  
17 recommend that defendant receive the statutory minimum, or the minimum term of incarceration  
18 recommended by the Sentencing Guidelines, whichever is greater.

19 5(b) If the United States believes the defendant has provided "substantial assistance" as  
20 defined by Sentencing Guidelines 5K1.1, the United States will request the court to depart below  
21 the statutory minimum pursuant to Title 18, United States Code, § 3553(e), and may, as provided  
22 by Sentencing Guidelines 5K1.1, request the court to depart below the applicable guidelines  
23 range, when fixing a sentence for defendant or may, within one year after sentencing herein,  
24 move the Court to order relief pursuant to Rule 35, Rules of Criminal Procedure to whatever  
25 guidelines range or sentence of incarceration the United States in its sole discretion deems  
26 appropriate. Defendant acknowledges that the United States has made no promise, implied or  
27 otherwise, that defendant will be granted a departure for substantial assistance. Defendant  
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1 further acknowledges that no promise of any kind has been made that a motion requesting such  
2 departure will be made except as otherwise provided herein.

3  
4 The United States agrees to consider the totality of the circumstances, including but not  
5 limited to the following factors, in determining whether, in the assessment of the U. S. Attorney,  
6 defendant has provided substantial assistance which would merit a government request for a  
7 downward departure from the mandatory statutory minimum or the applicable Guidelines  
8 sentencing range:

9 (1) the United States' evaluation of the significance and usefulness of any assis-  
tance rendered by defendant;

10 (2) the truthfulness, completeness, and reliability of any information or testimony  
11 provided by defendant;

12 (3) the nature and extent of defendant's assistance;

13 (4) any injuries suffered or any danger or risk of injury to defendant or defendant's  
family resulting from any assistance provided by defendant; and

14 (5) the timeliness of any assistance provided by defendant.

15 It is understood that even if a motion for departure is made by the United States, based  
16 upon defendant's perceived substantial assistance, the final decision as to how much, if any,  
17 reduction in sentence is warranted because of that assistance, rests solely with the District Court.

18 5© The government will recommend a fine within the Sentencing Guidelines range. If  
19 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
20 full disclosure of his financial status to the United States Attorney's Office by completing a  
21 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.  
22 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

23 6. The defendant understands that to establish a violation of Possession of a Firearm by a  
24 Prohibited Person as charged pursuant to 18 U.S.C. § 922(g)(5)(B) and 924(a)(2) and §2, the  
25 government must prove each of the following elements beyond a reasonable doubt:

26 First: the defendant knowingly possessed a firearm, a Smith and Wesson snub  
27 nose, .38 caliber revolver, Serial Number D841536, Model 64,

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2 Second: the a Smith and Wesson snub nose, .38 caliber revolver, Serial Number  
3 D841536, Model 64, firearm had been shipped or transported in interstate commerce at  
some time during or before the defendant's possession of it;

4 Third: at the time the defendant possessed the a Smith and Wesson snub nose, .38 caliber  
5 revolver, Serial Number D841536, Model 64, the defendant was an alien admitted to the  
United States under a non-immigrant visa.

6 7. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
7 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,  
8 in calculating the applicable guidelines level. The Government and the defendant stipulate to the  
9 following facts for purposes of the Sentencing Guidelines:

10 (a) The defendant was born in 1955, and is a citizen of Korea.

11 (b) If the defendant cooperates with the United States by providing information  
12 concerning the unlawful activities of others, the government agrees that any self-incriminating  
13 information so provided will not be used against defendant in assessing his punishment, and  
14 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used  
15 in determining the applicable guidelines range.

16 (c) On or about November 17, 2007, defendant MANHANG CHO, was admitted into the  
17 United States under a non-immigrant visa;

18 (d) On or about January 12, 2008, Joseph R. Mesa, Witness, reported that a Korean male,  
19 identified to be MANHANG CHO, approached him and showed him a revolver. MANHANG  
20 CHO asked Mr. Mesa for bullets for the firearm. Mr. Mesa informed MANHANG CHO that he  
21 did not have bullets for the firearm. MANHANG CHO asked Mr. Mesa to write down the type  
22 of bullet required for the weapon. Mesa called Police.

23 Police arrived at the Talofofo Falls Park, Talofofo, Guam. MANHANG CHO directed  
24 Police to a desk drawer containing a firearm, a Smith and Wesson snub nose, .38 caliber  
25 revolver, Serial Number D841536, Model 64.

26 (e) The firearm, a Smith and Wesson snub nose, .38 caliber revolver, Serial Number  
27 D841536, Model 64, had been shipped in interstate or foreign commerce.

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2 (f) The defendant understands that notwithstanding any agreement of the parties, the  
3 United States Probation Office will make an independent application of the Sentencing  
4 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
5 sentencing guidelines range projected by his counsel or any other person, such discrepancies are  
6 not a basis to withdraw his guilty plea.

7 8. The defendant understands that this plea agreement depends on the fullness and  
8 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should  
9 fail to fulfill completely each and every one of his obligations under this plea agreement, or make  
10 material omissions or intentional misstatements or engage in criminal conduct after the entry of  
11 his plea agreement and before sentencing, the government will be free from its obligations under  
12 the plea agreement. Thus defendant, in addition to standing guilty of the matters to which he has  
13 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other  
14 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting  
15 authorities, whether Federal, State, or Local, shall be free to use against him, without limitation,  
16 any and all information, in whatever form, that he has provided pursuant to this plea agreement  
17 or otherwise; defendant shall not assert any claim under the United States Constitution, any  
18 statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of  
19 Evidence, or any other provision of law, to attempt to bar such use of the information.

20 9. Defendant understands that whether he has completely fulfilled all of the obligations  
21 under this agreement shall be determined by the court in an appropriate proceeding at which any  
22 disclosures and documents provided by defendant shall be admissible and at which the United  
23 States shall be required to establish any breach by a preponderance of the evidence. In  
24 determining whether there has been a breach, the parties agree that any polygraph results and the  
25 polygrapher's conclusions and opinions shall be admissible.

26 10. The defendant understands that his sentencing may be continued, at the discretion of  
27 the United States, until after the indictment and trial of any associates involved. This will also  
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1 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore  
2 waives any right he may have to any speedy sentencing and hereby agrees to any continuance of  
3 his sentencing date as it may become necessary.  
4

5 11. In exchange for the government's concessions in this plea agreement, the defendant  
6 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
7 the sentence imposed in this case. The defendant understands and agrees that the government  
8 has bargained for a criminal conviction arising from his criminal conduct. If at any time  
9 defendant's guilty plea or conviction is rejected, withdrawn, vacated or reversed, for whatever  
10 reason, or is rendered invalid for any reason, or if any change of law renders the conduct for  
11 which he was convicted to be non-criminal, defendant agrees that he will enter a guilty plea to  
12 another charge encompassing the same or similar conduct. In such event, defendant waives any  
13 objections, motions or defenses based upon the Statute of Limitations, Speedy Trial Act, or  
14 constitutional restrictions as to the time of bringing such charges.

15 12. The defendant acknowledges that he has been advised of his rights as set forth below  
16 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
17 had sufficient opportunity to reflect upon, and understands the following:

18 (a) The nature and elements of the charge and the mandatory minimum penalty provided  
19 by law, if any, and the maximum possible penalty provided by law;

20 (b) His right to be represented by an attorney;

21 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the  
22 right to be represented by counsel, the right to confront and cross-examine witnesses against him,  
23 and the right not to be compelled to incriminate himself, that is, the right not to testify;

24 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to  
25 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
26 up, the right to a trial;

27 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
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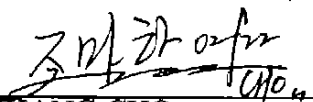
11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court does not accept the sentencing recommendations of the government or his counsel;

(f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions about the offenses to which he has pled, under oath, and that if he answers these questions under oath, on the record, his answers may later be used against him in prosecution for perjury or false statement if an answer is untrue;


(g) That he agrees that the plea agreement is voluntary and not a result of any force, threats or promises apart from this plea agreement;

(h) The defendant is satisfied with the representation of his lawyer and feels that his lawyer has done everything possible for his defense.

DATED: 2-22-08

  
MANHANG CHO  
Defendant

DATED: 2-22-08


  
SAMUEL S. TEKER  
Attorney for Defendant

LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

DATED: 2/25/08

By:   
ROSETTA L. SAN NICOLAS  
Assistant U.S. Attorney

DATED: 2/25/08

  
JEFFREY J. STRAND  
First Assistant U.S. Attorney